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2013 SEP 27 AM 9:02

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE
FOR MERRILL LYNCH
ALTERNATIVE NOTE
ASSETS 2007-A2,

Plaintiff,

vs.

FRANCISCO RIOS, MARINA
RIOS, DOES I THROUGH X
INCLUSIVE,

Defendants.

Case No. EDCV 13-1677-UA (DUTYx)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because it has been removed improperly.

On July 16, 2013, defendants Francisco Rios and Marina Rios, having been sued in what appeared to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed *in forma pauperis*. (See *HSBC Bank USA v. Rios, et al.*; Case No. EDCV 13-1246-UA (DUTYx).) On August 2, 2013, the Court denied

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1 defendants' application to proceed *in forma pauperis* and remanded the action to state
2 court.

3 On September 17, 2013, defendants lodged with the Court a second Notice of
4 Removal of the same underlying action, which, again, appears to be a routine
5 unlawful detainer action in California state court. Again, defendants have presented
6 an application to proceed *in forma pauperis*. The Court has denied the latter
7 application under separate cover because the action was not properly removed. To
8 prevent the action from remaining in jurisdictional limbo, the Court issues this Order
9 to remand the action to state court.

10 As previously noted, plaintiff could not have brought this action in federal
11 court in the first place, in that defendants do not competently allege facts supplying
12 either diversity or federal-question jurisdiction, and therefore removal is improper.
13 28 U.S.C. §1441(a); see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545 U.S. 546,
14 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Even if complete diversity of
15 citizenship exists, the amount in controversy does not exceed the diversity-
16 jurisdiction threshold of \$75,000. See 28 U.S.C. §§ 1332, 1441(b). On the contrary,
17 the unlawful-detainer complaint recites that the amount in controversy does not
18 exceed \$10,000.

19 Nor does plaintiff's unlawful detainer action raise any federal legal question.
20 See 28 U.S.C. §§ 1331, 1441(b).

21 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the
22 Superior Court of California, San Bernardino County, 14455 Civic Drive, Suite 100,
23 Victorville, CA 92392, for lack of subject matter jurisdiction pursuant to 28 U.S.C.

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1 § 1447(c); (2) that the Clerk send a certified copy of this Order to the state court; and
2 (3) that the Clerk serve copies of this Order on the parties.

3 IT IS SO ORDERED.

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6 DATED: 9/25/13


7 GEORGE H. KING
CHIEF UNITED STATES DISTRICT JUDGE

8 Presented by:

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10 _____
11 David T. Bristow
United States Magistrate Judge